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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/615,978	07/14/2000	Walter V. Klemp	P01880US1	6708

26271 7590 04/26/2002

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EXAMINER

STEPHENS, JACQUELINE F

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 04/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/615,978

Applicant(s)

KLEMP ET AL.

Examiner

Jacqueline F Stephens

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 and 33-37 is/are rejected.
- 7) ☒ Claim(s) 32 and 38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-30 and 33-37 have been considered but are moot in view of the new ground(s) of rejection.

### ***Oath/Declaration***

2. It is noted that the declaration does not identify the US application 60/144,345 filed July 16, 1999 on which priority is claimed. If applicant desires priority under 35 U.S.C. 120 based upon a previously filed copending application, specific reference to the earlier filed application should be made in the oath/declaration.

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: specification page 14, line 2 "upper (S1) and lower (S2) layers". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 22, 101, 1833. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to

the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

5. The disclosure is objected to because of the following informalities: page 14, line 15, "ration" should read "ratio". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 1, 8-12, 14, 16, 18, 19, 25-27, 30, and 31 are rejected under 35 U.S.C. 102(a) as being anticipated by Suzuki WO 9825999 A1.

Regarding claims 1, 8, 18, and 30, Suzuki discloses an absorbent article as claimed (Figure 23) comprising an absorbent layer of hydratable fine fibers in the form of microfibril obtained from cellulose or a derivative thereof and super absorbent polymer particles bonded together by the hydratable fibers and a nonwoven substrate supporting the absorbent layer. The absorbent layer further comprises a coating (Abstract, Figures 8, 9, 10, 23, and 52-54).

Regarding claims 9-12, 25-27, 29, 31, 37, see Figures 11, 12, 14, and 15.

Regarding claims 14, 16, and 19, see Figure 10.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 2-6, 13, 15, 20-23, 28, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (WO 9825999 A1) in view of Suzuki (USPN 6258196 B1).

Regarding claims 2-5, 20, and 21, Suzuki discloses the present invention substantially as claimed. However, Suzuki fails to disclose the absorbent article comprises cuffs containing absorbent material. Suzuki '196 an absorbent composite that may also be contained in side cuffs or side-wrapping elements (Figures 39, 40, and

41). It would have been obvious to one of ordinary skill in the art to incorporate the absorbent composite of Suzuki '999 in side cuffs as disclosed in '196. Doing so would provide a means for absorbing fluids that are not readily absorbed by the core and prevent side leakage.

9. Regarding claims 15 and 28 Suzuki '999 discloses the present invention substantially as claimed. However, Suzuki fails to disclose the absorbent composite further includes a concentration of pulp material. Suzuki '196 discloses either the absorbent layer or the nonwoven substrate layer may comprise a concentration of pulp material (col. 3, lines 45-52). Therefore, the absorbent composite may contain pulp material disposed between layers as claimed (Figures 18 a/b, 22, and 30b). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate pulp in the absorbent layer as disclosed in Suzuki '196. Doing so would provide additional absorbent material, increase wicking properties, and help to prevent gel blocking in the absorbent layer.

10. Regarding claims 6, 13, 22, 23, and 34. Suzuki '999/Suzuki '196 disclose the present invention substantially as claimed. However, Suzuki '999/Suzuki '196 fails to disclose the super absorbent polymers exhibit gel blocking. Suzuki '999/Suzuki '196 disclose the polymeric materials are adapted to swell such as in Figure 16b. Suzuki '999/Suzuki '196 further disclose that the 'waves' are hydrophobic which inherently creates a water impervious area when the polymeric materials swell. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the composite with a low crosslinked material to create a liquid impervious

material, since Suzuki '999/Suzuki '196 teaches creating a liquid barrier due to the swelling of the absorbent particles. Additionally, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the absorbent composite in the backsheet as claimed, since the absorbent particles as modified above are capable of creating a liquid barrier.

11. Claims 7, 17, 24, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki '999 in view of Suzuki '196 and further in view of Gross (USPN 5403870). Suzuki '999/Suzuki '196 disclose the present invention substantially as claimed. However, Suzuki fails to disclose the concentration and swell rate of the superabsorbent materials. Gross discloses a water-swellaable, water-insoluble polymeric material suitable for use in absorbent articles. Gross further discloses that the amount of cross-linking is proportional to its water-swellaability. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the composite of Suzuki with a concentration of crosslinking agent suitable for the end product as taught by Gross. Additionally, discovering an optimum value of a result effective variable only involves routine skill in the art.

***Allowable Subject Matter***

12. Claims 32 and 38 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F Stephens whose telephone number is (703)308-8320. The examiner can normally be reached on Monday-Friday 9:00-5:30.

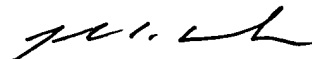
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703)308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3590 for regular communications and (703)306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

Jacqueline F Stephens  
Examiner  
Art Unit 3761



April 19, 2002



John G. Weiss  
Supervisory Patent Examiner  
Group 3700